



W.P.(MD).No.13492 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13492 of 2024
and WMP(MD) No.11906 of 2024

S.Shyam Raj

... Petitioner

Vs

1. The Secretary,
Revenue Department,
Secretariat, St. George Fort,
Chennai.
2. The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai.
3. The District Collector,
Nagercoil, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned proceedings vide No.A1/18721/2016, dated 09.01.2019 passed by the 3rd respondent and quash the same as being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law and consequently directing the 3rd respondent to ensure the petitioner's regularisation of his appointment with effect from 19.09.2014 i.e. date of appointment.



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For Petitioner : Mr. V.Rajiv Rufus

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

Heard Mr.V.Rajiv Rufus, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents.

2.This Writ Petition has been filed challenging the impugned proceedings vide No.A1/18721/2016, dated 09.01.2019 passed by the 3rd respondent and consequently to direct the 3rd respondent to ensure the petitioner's regularisation with effect from 19.09.2014 i.e. date of appointment.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The petitioner has joined in service as Village Administrative Officer on compassionate ground appointment with effect from 19.09.2014. At the time of joining in the post, his age was 19 years 3 months.



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5. Earlier, the petitioner's service has been regularized from the date of his appointment (ie., 19.09.2014) by virtue of the order, dated 02.06.2016 by the then District Collector. The present impugned order has been passed by another succeeding District Collector to the same post by stating that the minimum age qualification for the post of Village Administrative Officer is 21 years. Since the petitioner has not attained the age of 21 years, the earlier order, dated 02.06.2016, regularizing the petitioner's service from the date of his joining ie., 19.09.2014 is cancelled.

6. Before cancelling the said order, no notice has been issued to the petitioner and the third respondent/District Collector has *suo-motu* recalled his own order. When the Authority, who has passed the order, has cancelled the same, it ought to be done in a manner known to law. Even without giving a notice to the petitioner, the third respondent has cancelled the earlier order and now claims that petitioner's right would lie only by way of preferring an appeal. Since the first principle of natural justice itself has been violated by keeping the petitioner in dark, I feel the same is liable to be set aside.



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7. Further, the learned counsel for the petitioner attracted the attention of this Court to a similar order passed in favour of one person, viz., T.P.Dharsiya, on 07.12.2016, wherein, age relaxation was given to her by considering her case as a special case.

8. The third respondent having found that the regularisation for the petitioner has already been made, even before he attained the age of 21 years and the similar orders passed by the Government on earlier occasions, ought to have written to the Government for relaxing the minimum age, by citing the petitioner's case as a special case, instead of cancelling the order of regularisation issued already.

9. The learned counsel for the petitioner submitted that the recommendation has been made to regularise the petitioner's service from the date of attaining 21 years of age, ie., on 11.06.2016.

10. The petitioner has joined in the service as early as on 19.09.2014 and his appointment was made against a regular post. As stated already, the rightful course open to the Authorities is to write to the



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Government to consider the petitioner's case as a special case and not to make any recommendation or to pass orders to regularise service of the petitioner on the date of attaining the age of 21 years ie., 11.06.2016. This would again violate the principle of equality. Because two equally persons shall not be treated differently. If relaxation is given in one such case, the other special case should also reserve the same consideration.

11. In view of the above reasons, this writ petition stands allowed and the impugned proceedings in No.A1/18721/2016, dated 09.01.2019 is hereby set aside. The third respondent is directed to write to the Government to consider the petitioner's case as a special case for relaxing the minimum age, by citing precedents and to grant ratification for the order already passed for regularising the petitioner's service with effect from 19.09.2014, ie., from the date of his appointment. Since the third respondent has to wait for the orders from the Government, no time limit is fixed. However, the said exercise shall be completed within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

24.06.2024



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NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

To

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2. The Commissioner of Revenue Administration,
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R.N.MANJULA, J.

PNM

**ORDER IN
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